

10/2/2012

ORDINANCE NO. 28833

An ordinance amending Section 5A-15 of CHAPTER 5A, "AIR POLLUTION," of the Dallas City Code, as amended; providing a defense to motor vehicle idling restrictions if a vehicle has a gross vehicle weight rating over 14,000 pounds and is equipped with a heavy-duty diesel engine or a liquefied or compressed natural gas engine meeting certain qualifications; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 5A-15, "Motor Vehicle Idling," of CHAPTER 5A, "AIR POLLUTION," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 5A-15. MOTOR VEHICLE IDLING.

(a) Definitions. In this section:

(1) **COMMERCIAL PASSENGER TRANSPORTATION** means a mode of transportation provided by a bus or motor coach designed to accommodate more than 10 passengers (including the operator) for compensation and that is powered by a primary propulsion engine, but specifically excluding the modes of railroad, light rail, or taxicabs.

(2) **IDLE** means the operation of an engine in the operating mode where:

(A) the engine is not engaged in gear;

(B) the engine operates at a speed at the revolutions per minute specified by the engine or vehicle manufacturer for when the accelerator is fully released; and

(C) there is no load on the engine.

(3) **MECHANICAL OPERATIONS** means the use of electrical tools or equipment in construction, maintenance, or repair of facilities.

(4) **PASSENGER TRANSIT OPERATIONS** means a regional mode of public transportation that is funded through a portion of sales tax for the region being served.

(5) PRIMARY PROPULSION ENGINE means a gasoline or diesel-fueled internal combustion engine that:

(A) is attached to a motor vehicle; and

(B) provides the power to propel the motor vehicle into motion and maintain motion.

(b) Idling prohibited. A person commits an offense if he causes, suffers, allows, or permits the primary propulsion engine of a motor vehicle to idle for more than five consecutive minutes when the motor vehicle is not in motion.

(c) Defenses. It is a defense to prosecution under this section that:

(1) the motor vehicle has a gross vehicle weight rating of 14,000 pounds or less;

(2) the motor vehicle was forced to remain motionless because of traffic conditions over which the operator had no control;

(3) the motor vehicle was being used:

(A) by the United States military, national guard, or reserve forces; or

(B) as an emergency or law enforcement motor vehicle;

(4) the primary propulsion engine of the motor vehicle was providing a power source necessary for a mechanical operation of the vehicle, other than:

(A) propulsion; or

(B) passenger compartment heating or air conditioning;

(5) the primary propulsion engine of the motor vehicle was being operated for maintenance or diagnostic purposes;

(6) the primary propulsion engine of the motor vehicle was being operated solely to defrost a windshield;

(7) the primary propulsion engine of the motor vehicle was being used to supply heat or air conditioning necessary for passenger comfort or safety, if the vehicle:

(A) was a school bus or was intended for commercial passenger transportation or passenger transit operations; and

(B) did not idle more than 30 consecutive minutes;

(8) the primary propulsion engine of the motor vehicle was being used to provide air conditioning or heating necessary for employee health or safety while the employee was using the vehicle to perform an essential job function related to roadway construction or maintenance;

(9) the primary propulsion engine of the motor vehicle was being used as airport ground support equipment;

(10) the person charged with the offense was the owner of a motor vehicle that had been rented or leased to the person operating the vehicle at the time of the offense, if the vehicle operator was not employed by the vehicle owner;

(11) the idling of the motor vehicle was necessary to power a heater or air conditioner while a driver was using the vehicle's sleeper berth for a government-mandated rest period and was not within two miles of a facility offering external heating and air conditioning connections at a time when those connections were available; [øø]

(12) the primary propulsion engine of the motor vehicle was being used to provide air conditioning or heating necessary for employee health or safety in an armored vehicle while the employee remained inside the vehicle to guard the contents or while the vehicle was being loaded or unloaded; or

(13) the motor vehicle has a gross vehicle weight rating greater than 14,000 pounds and is equipped with a 2008 or subsequent model year heavy-duty diesel engine or liquefied or compressed natural gas engine that has been certified by the United States Environmental Protection Agency or another state environmental agency to emit no more than 30 grams of nitrogen oxides emissions per hour when idling.

(d) Penalties.

(1) An offense under this section is punishable by a fine not to exceed \$500. Each instance of a violation of this section is a separate offense.

(2) The culpable mental state required for the commission of an offense under this section is governed by Section 1-5.1 of this code.

(3) Prosecution for an offense under this section does not preclude the use of other enforcement remedies or procedures that may be available to the city."

SECTION 2. That CHAPTER 5A of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance. Any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and the former law is continued in effect for that purpose.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance will take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By *Lisa Christopher*
Assistant City Attorney

Passed NOV 14 2012

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