

1 **ENROLLED**

2 **Senate Bill No. 544**

3 (BY SENATORS D. FACEMIRE, KLEMPA AND BEACH)

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5 [Passed March 10, 2012; in effect ninety days from passage.]
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10 AN ACT to amend and reenact §17C-13A-3 of the Code of West
11 Virginia, 1931, as amended, relating to Diesel-Powered Motor
12 Vehicle Idling Act; and removing the expiration date for
13 occupied vehicles with sleeper-berth compartments.

14 *Be it enacted by the Legislature of West Virginia:*

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

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

18 **§17C-13A-3. Exceptions.**

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

22 (b) The idling restrictions set forth in section two of this
23 article do not apply to construction equipment that cannot be

1 licensed for on-road driving or construction equipment that is not
2 designed primarily for on-road driving, notwithstanding that such
3 equipment may be operated or driven on road from time to time and
4 in the course of performing its primary functions: *Provided*, That
5 idling is necessary to power work-related mechanical, safety or
6 electrical operations related to construction operations other than
7 propulsion.

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

11 (1) When a vehicle idles while forced to remain motionless
12 because of on-highway traffic, an official traffic control device
13 or signal or at the direction of a law-enforcement official.

14 (2) When a vehicle must idle to operate defrosters, heaters,
15 air conditioners or cargo refrigeration equipment, or to install
16 equipment, in order to prevent a safety or health emergency, and
17 not for the purpose of a rest period, or as otherwise necessary to
18 comply with manufacturers' operating requirements, specifications
19 and warranties in accordance with federal or state motor carrier
20 safety regulations or local requirements.

21 (3) When a police, fire, ambulance, public safety, military,
22 utility service vehicle or other emergency or law-enforcement
23 vehicle or any vehicle being used in an emergency or public safety
24 capacity shall idle while in an emergency or training mode and not

1 for the convenience of the driver.

2 (4) When the primary propulsion engine idles for maintenance,
3 particulate matter trap regeneration, servicing or repair of the
4 vehicle, or for vehicle diagnostic purposes, if idling is required
5 for that activity.

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

9 (6) When idling of a primary propulsion engine is necessary to
10 power work-related mechanical, safety or electrical operations
11 other than propulsion. This exemption does not apply when idling
12 is done for cabin comfort or to operate nonessential onboard
13 equipment.

14 (7) When idling of a primary propulsion engine is necessary as
15 part of a security inspection either entering or exiting a
16 facility.

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

20 (9) When a vehicle must idle due to mechanical difficulties
21 over which the driver has no control, if the vehicle owner submits
22 the repair paperwork or product repair verifying that the
23 mechanical problem has been fixed, by mail to the commission within
24 thirty days of the repair.

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

7 (11) An occupied vehicle with a sleeper-berth compartment that
8 idles for purposes of air conditioning or heating during a rest or
9 sleep period and the outside temperature at the location of the
10 vehicle is less than forty degrees or greater than seventy-five
11 degrees Fahrenheit at any time during the rest or sleep period.
12 This applies to a motor vehicle subject to this article parked in
13 any place that the vehicle is legally permitted to park, including,
14 but not limited to, a fleet trucking terminal, commercial truck
15 stop or designed rest area. This exemption does not apply if the
16 vehicle is parked at a location equipped with stationary idle
17 reduction technology that is available for use at the start of the
18 rest period.

19 (12) When idling is necessary for sampling, weighing, active
20 loading or active unloading or for an attended motor vehicle
21 waiting for sampling, weighing, loading or unloading. For the
22 purposes of this exemption, the vehicle may idle for up to a total
23 of fifteen minutes in any continuous sixty-minute period.

24 (13) When idling by a school bus off school grounds during

1 queuing for the sequential discharge or pickup of students is
2 necessary because the physical configuration of a school or the
3 school's surrounding streets does not allow for stopping.

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

8 (15) When actively engaged in solid waste collection or the
9 collection of source-separated recyclable materials. This
10 exemption does not apply when a vehicle is not actively engaged in
11 solid waste collection or the collection of source-separated
12 recyclable materials.

13 (16) When a diesel-powered motor vehicle exhibits a label
14 issued by the California Air Resources Board under 13 CCR
15 §1956.8(a)(6)(C) (relating to exhaust emissions standards and test
16 procedures - 1985 and subsequent model heavy-duty engines and
17 vehicles) showing that the vehicle's engine meets the optional NOx
18 idling emission standard.

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