

SUBJECT: Prohibiting regulation of motor vehicle idling under certain conditions

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 7 ayes — Bonnen, Howard, Driver, Homer, T. King, Kuempel, W. Smith
0 nays

WITNESSES: For — Jon Fisher, Texas Chemical Council; Mary Miksa, Texas Association of Business; Bill Webb, Texas Motor Transportation Association

Against — Ramon Alvarez, Environmental Defense

On — Anne Marie Johnson, Public Citizen

BACKGROUND: The Federal Clean Air Act authorizes the Environmental Protection Agency (EPA) to establish national air quality standards and to approve or reject plans such as a State Implementation Plan (SIP) or Early Action Compact (EAC). A SIP explains how a state will comply with air quality standards required by the Clean Air Act. An EAC is a compact among local, state and EPA officials for areas that may be approaching nonattainment status and includes an air quality plan submitted to the EPA as part of the state's SIP.

Certain provisions from chapter 114 of the Texas Administrative Code apply only within the jurisdiction of a local government that has signed a Memorandum of Agreement with Texas Commission on Environmental Quality (TCEQ) as part of an EAC. Certain of these TCEQ rules say the primary propulsion engine of a motor vehicle will not be allowed to idle for more than five consecutive minutes when the vehicle is not in motion during the period of April 1 through October 31. The rule does not apply to a motor vehicle with a gross vehicle weight rating of 14,000 pounds or less or to a motor vehicle that has been forced to remain motionless because of traffic conditions over which the operator has no control. The purpose of these idling rules is to reduce potentially harmful emissions.

The idling rules currently apply to the only area committed to using them in their EAC – the Austin EAC Region, including Bastrop, Caldwell,

Hays, Travis, and Williamson counties.

In 2004 the Federal Motor Carrier Safety Administration updated the hours-of-service rule for truck companies, which included updated rest period regulations. These regulations include a mandatory rest period of 10 hours in a 24-hour period.

DIGEST:

CSHB 1540 would amend the Health and Safety Code to specify that TCEQ could not prohibit or limit the idling of a motor vehicle when idling was necessary to power the heater or air conditioner in a vehicle's sleeper berth when the berth was used to adhere to a government-mandated rest period.

The bill would define idling as allowing an engine to run while the motor vehicle was not engaged in forward or reverse motion.

The bill would take effect September 1, 2005, and would expire September 1, 2007.

**SUPPORTERS
SAY:**

All commercial truck drivers operating on Texas highways must adhere to federally mandated hours-of-service operating rules, which include a rest period. Texas sometimes has extreme and even dangerous temperatures, and idling a truck can provide air conditioning or heat to a truck's sleeper berth. Restrictions on engine idling might prevent truck drivers from complying with these federally mandated rest periods. If a truck driver skipped a rest period and drove without sleep, this would be a danger to the truck driver and to other drivers on the road. If a truck driver tried to get rest during the heat of August in a sleeper berth that was not air-conditioned, this could be dangerous to the health of the driver.

CSHB 1540 would promote not only public safety but also economic development. The flow of goods across the state is facilitated when drivers adhere to federal laws that protect the truck industry, such as mandated rest periods. CSHB 1540 would allow drivers to adhere to these rest period requirements.

The bill also would support truck drivers simply trying to make a living. State rules should not make conditions harder on them. This bill would not allow idling just for the sake of idling. It would specify that the truck driver be on a government-mandated rest period.

The September 1, 2007, expiration date for the provisions of this bill is important because by 2007 the truck stop electrification technology for heating and cooling a vehicle's sleeper berth without idling the vehicle should be more widely available. The most widespread commercial example of this technology is known as IdleAire. By 2007 EPA also could provide more uniform federal regulations related to diesel truck idling.

Many truck drivers have invested in adjusting their trucks to include sleeping facilities to avoid the costs of a hotel. CSHB 1540 would support this investment, which could be an important element of a trucker's business model. Using gas while idling is a precalculated cost of business that truck companies and drivers already have factored into their business equations.

The Austin EAC Region currently is the only area using this TCEQ idling rule. Allowing this limited, temporary exception would not affect adversely the SIP with respect to the state's nonattainment areas.

**OPPONENTS
SAY:**

CSHB 1540 would take air quality regulation authority away from TCEQ and allow more truck idling in the areas that currently restrict this practice. The TCEQ rules are an important tool for keeping the state's air and environment clean. Truck idling puts public health at risk because air quality in general deteriorates when trucks idle. Diesel engines substantially contribute to harmful ozone-forming nitrogen oxide (NO_x) emissions. The health impacts of diesel pollution go beyond NO_x – fine particulate matter from diesel engines may pose an even greater health hazard. Truck idling not only negatively influences air quality, it also wastes about one billion gallons of fuel nationally each year.

Under CSHB 1540, any local government that had submitted truck idling restrictions as part of their emission-reduction plan to the EPA would need to revise their plans for possible EPA approval. This revision would involve a multi-step process, including an evaluation of the impact CSHB 1540 would have on idling emissions and plan revision approval from TCEQ. This would consume time and energy, and a delay could make it more difficult to meet compliance milestones.

The proposed legislation assumes that resting in the vehicle's sleeper berth is the only way for a truck driver to comply with a government-mandated rest period. During periods of extreme heat or cold, a truck driver has the

option of checking into a motel rather than enduring dangerous temperatures in a truck.

If the bill required wider use of truck stop electrification, such as IdleAire, then truck idling could be reduced. If more of these units were installed at truck stops, drivers could take their mandated rest periods without concern for causing pollution.

**OTHER
OPPONENTS
SAY:**

CSHB 1540 also should restrict the idling of trucks near schools, hospitals and residential areas. The emissions and noise from idling trucks are especially destructive in these sensitive areas. California already has such restrictions on the idling of trucks, for example.

An interim committee should be set up to study the health impact of diesel pollution and idling, especially to examine the impact on places with high concentrations of trucks, before creating this exception to the idling restrictions.

NOTES:

According to the fiscal note, TCEQ would have some costs associated with rulemaking and amending the SIP, but they are expected to be absorbed using current agency resources.

The committee substitute added the September 1, 2007, expiration provision.